

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MTU AKILI,

Defendant.

Case No. 1:93-CR-353

OPINION & ORDER
[Resolving Doc. [142-2](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Defendant Mtu Akili¹ petitions for habeas corpus relief under 28 U.S.C. § 2255. He argues that he no longer qualifies as a career offender and was improperly sentenced under the [United States Sentencing Guideline § 4B1.1; 1.2\(a\)](#).² The Supreme Court's recent opinion in [Beckles v. United States](#)³ forecloses his argument.

Defendant Akili's argument centers on the relationship between the Guidelines and the Armed Career Criminals Act.

On June 26, 2015, the Supreme Court gave an opinion in *Johnson v. United States*, holding that the residual clause of the Armed Career Criminals Act was unconstitutionally vague.⁴ If a sentencing court imposed an increased sentence based on felonies that qualified under the residual clause alone, that sentence violated a criminal defendant's constitutional right to due process.⁵

¹ Defendant Akili is also known as Darrin Austin and Muntu Akili.

² Doc. [142-2](#). The Government opposes. Docs. [142-3](#). Defendant Akili sought permission from the Sixth Circuit to file a second petition for habeas relief. On September 23, 2016, the Sixth Circuit granted Akili's motion and ordered this Court to hold the case in abeyance pending the outcome of *Beckles*. Doc. [142](#).

³ [No. 15-8544, 2017 WL 855781 \(U.S. Mar. 6, 2017\)](#).

⁴ [U.S. , 135 S. Ct. 2551 \(2015\)](#).

⁵ *Id.*

A criminal defendant sentenced under the ACCA residual clause can collaterally challenge his ACCA affected sentence in a § 2255 habeas proceeding.⁶

The Guidelines' career offender provision defines "crime of violence" using the same language ruled unconstitutional in *Johnson*.⁷ Therefore, since *Johnson*, many criminal defendants sentenced under the Guidelines' career offender provision have argued that *Johnson*'s holding should also apply retroactively to Guidelines cases.

In *Beckles*, the Supreme Court rejected this argument. In *Beckles*, the Petitioner argued that because the Court's *Johnson* opinion held "that the identically worded residual clause in the Armed Career Criminal Act . . . was unconstitutionally vague . . . the Guidelines' residual clause is also void for vagueness."⁸

In answering this argument, the *Beckles* Court held that because of the Guidelines' advisory nature, they "are not subject to vagueness challenges under the Due Process Clause."⁹

The Supreme Court's decision dictates the outcome of *Beckles*-dependant cases pending across the federal courts. Accordingly, this Court **DENIES** Defendant Akili's § 2255 petition.

IT IS SO ORDERED.

Dated: April 14, 2017

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

⁶ [*Welch v. United States*, U.S. , 136 S. Ct. 1257, 1265 \(2016\)](#).

⁷ See [United States Sentencing Guideline § 4B1.2\(a\)](#) (emphasis added).

⁸ [No. 15-8544, 2017 WL 855781, at *3 \(U.S. Mar. 6, 2017\)](#).

⁹ *Id.*